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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0130]

[Docket 2012-0076; Sequence 14]

**Federal Acquisition Regulation;**

**Submission for OMB Review; Buy American Act—Free Trade**

**Agreements—Israeli Trade Act Certificate**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate. A notice was published in the Federal Register at 77 FR 43081, on July 23, 2012. One comment was received.

**DATES:** Submit comments on or before [Insert date 30 days after publication in the Federal Register].

**ADDRESSES:** Submit comments identified by **Information Collection 9000-0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate**, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching "Information Collection 9000-0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate.

Instructions: Please submit comments only and cite Information Collection 9000-0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, Contract Policy Division, GSA, (202) 219-0202 or via email at [cecelia.davis@gsa.gov](mailto:cecelia.davis@gsa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Under the Free Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers, over a certain dollar limitation, to supply an eligible product without regard to the restrictions of the Buy American Act. FAR provision 52.225-4, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate, requires an offeror to certify that the offered products are domestic end products and Free Trade Agreement (FTA) end products. The provision also requires an offeror to identify foreign end products.

Contracting officers use the information to give domestic and FTA country end products a preference during the evaluation of offers. Items having components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

**B. Analysis of Public Comments.**

A notice was published in the *Federal Register* at 77 FR 43081, on July 23, 2012. One respondent submitted public comments on the extension of the previously approved information collection. The analysis of public comments is summarized as follows:

**Comment:** The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

**Response:** In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three

years. This extension, to a previously approved information collection, pertains to implementation of FAR 25.406 and the provision at FAR 52.225-4, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate, in accordance with the terms of the Free Trade Agreements Act of 1979. Under the Free Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers (over a certain dollar limitation) to supply an eligible product, without regard to restrictions of the Buy American Act. Offerors identify covered Free Trade Agreement (FTA) country end products and other foreign end products on this certificate in accordance with the FAR provision at 52.225-4. The contracting officer uses the information to identify covered FTA country end products. Offers are evaluated by giving a preference to domestic and covered FTA country end products over other products, as provided for by law and treaty.

**Comment:** The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For

this reason, the respondent provided that the agency should reassess the total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The same respondent also provided that the burden of compliance with the agency's information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

**Response:** Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing

practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business.

Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is not required at this time related to the responses per respondent. The revised estimate of two responses per respondent is based upon contractor use of the Online Representation and Certifications Application (ORCA) function in the System for Award Management (SAM) rather than the completion of representations and certifications for each solicitation/contract for which a vendor submits an offer. The ORCA function was developed to eliminate the administrative burden for contractors of submitting the same information to various contracting offices, and to

establish a common source for this information to procurement offices across the Government. Prior to the ORCA function's implementation, prospective contractors were required to submit representations and certifications in paper form for each individual contract award. Under these conditions, a higher response rate per year per contractor as suggested by the respondent may have been necessary. However, using the ORCA function in SAM, a contractor can enter their representations and certification information once for use on all Federal contracts and solicitations. FAR 4.1201(a) requires prospective contractors to complete electronic annual representations and certifications in conjunction with required registration in the Central Contractor Registration (CCR). These requirements are met through functionality in SAM. The representations and certifications are effective until one year from the date of submission or update to the ORCA function in SAM. For purposes of this information collection, initial data entry plus one update per year was considered reasonable and was used to estimate the number of responses per respondent per



year, i.e., 2 responses per respondent.

We have reassessed the hours of burden per response based on the respondent's comment, and have determined that an upward estimate of thirty minutes would provide a more accurate measure of the time required to complete or update the initial certification.

However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

**B. Annual Reporting Burden**

Respondents: 162,000.

Responses Per Respondent: 2.

Annual Responses: 324,000.

Hours Per Response: .5.

Total Burden Hours: 162,000.

**OBTAINING COPIES OF PROPOSALS:** Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202)501-4755. Please cite OMB Control No. 9000-

0130, Buy American Act—Free Trade Agreements—Israeli Trade  
Act Certificate, in all correspondence.

Dated: March 21, 2013

William Clark,  
Acting Director,  
Federal Acquisition Policy Division,  
Office of Governmentwide Acquisition Policy,  
Office of Acquisition Policy,  
Office of Governmentwide Policy.

**[BILLING CODE 6820-EP]**

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